

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MICHAEL L. MARK, #1064829	§	
VS.	§	CIVIL ACTION NO. 6:16cv1123
LEE ANN SPEARS, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Michael L. Mark, an inmate confined at the Powledge Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation (Dkt. #50) for the disposition of the lawsuit. Mr. Mark has filed objections (Dkt. #52).

A recommendation was made to dismiss the lawsuit because Mr. Mark repeatedly failed to comply with orders to file an amended complaint limited to the individuals remaining in this lawsuit. In his objections, Mr. Mark complains about an order of severance and partial transfer (Dkt. #16), which was issued on November 17, 2016. To the extent that a party disagrees with a nondispositive order issued by a magistrate judge, he has fourteen days to file a notice of appeal to the presiding district judge. Fed. R. Civ. P. 72(a). Mr. Mark failed to do so, and it is too late to object at this juncture.

Mr. Mark also complains that the case has not been reviewed on the merits, but he failed to file the requisite amended complaint that would have made it possible for the court to conduct

a review of his case on the merits. The fault lies with his failure to comply with orders to file an amended complaint. Magistrate Judge Love appropriately recommended that the case be dismissed for want of prosecution and Mr. Mark's failure to comply with the court's orders.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Mr. Mark to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Mr. Mark's objections are without merit. Therefore, the court adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the court. It is accordingly

ORDERED that the lawsuit is **DISMISSED** without prejudice for failure to obey an order and want of prosecution. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. All motions not previously ruled on are **DENIED**.

So Ordered and Signed

Aug 15, 2017



Ron Clark, United States District Judge